

REMARKS

With entry of the present amendment, claims 1, 2, 4-10, 12-16, 18, 22, 29, 30, and 40-76 are pending. Claims 31 and 39 are presently canceled. Claims 3, 11, 17, 19-21, 23-28 and 32-38 were previously canceled. Claims 1, 45, 49 and 73 are amended. No new matter is believed to be presented by the foregoing amendments.

Entry of this amendment and reconsideration of the claims, as amended and in view of the following remarks, is requested.

New Claim Objection

Claim 73 is objected to due to the misspelling of the term "cystein." The spelling is corrected to state "cysteine."

The Section 112 Rejections

Claims 1, 2, 4-10, 12-16, 18, 22, 29-31, 39-52 and 59-76 stand rejected under 35 USC § 112, second paragraph, as being indefinite. The specific rejections of the affected claims are discussed below. In view of the above amendments, these rejections are overcome.

Specifically, claim 1 is rejected for referring to citrate as providing a multiple charged inorganic anion. The option of citrate is deleted from the current claims.

Claim 1 is also rejected for use of the phrase "such as" in line 3. This phrase is deleted and replaced with "providing."

Claims 31 and 39 are rejected as not further limiting the claims from which they depend. These claims are canceled.

Claim 45 is rejected for containing the range of "10 μ g to 1000 μ g" of erythropoietin per ml while the claims from which it depends recite the range of "100 to 400 μ g" of erythropoietin per ml of solution. Claim 45 is amended to recite a range of "100 μ g to 400 μ g" consistent with claims 43 and 44.

In addition, claim 49 is amended to correct the spelling of "antioxidant" and also to remove the option of "citrate," consistent with the amendment to claim 1.

For the foregoing reasons, all of the rejections of the claims under Section 112, second paragraph, are overcome and should be withdrawn.

Obviousness-Type Double Patenting

Claims 1, 2, 4-10, 12-16, 18, 22, 29-31 and 39-76 are rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 24, 25, 27-34, 38-42, 51-55, 59-61, 67, 68, 71-77 and 83-108 of co-pending application U.S. Serial No. 09/853,731 (Case Docket No. 20619 US). The foregoing claims of the '731 application currently stand allowed. As requested by the Examiner, applicant submits herewith a Terminal Disclaimer over the '731 application.


CONCLUSION

The foregoing amendment is fully responsive to the Final Office Action issued November 22, 2006. Applicants submit that claims 1, 2, 4-10, 12-16, 18, 22, 29, 30, and 40-76, as amended, are allowable. Early and favorable consideration is earnestly solicited.

If the Examiner believes there are other issues that can be resolved by telephone interview, or that there are any informalities remaining in the application which may be corrected by Examiner's Amendment, a telephone call to the undersigned attorney is respectfully solicited.

Applicants believe that no fee is due with this communication. However, should the Patent Office determine that a fee is owed, or a credit is due to applicant, the Patent Office is hereby authorized to charge any required fees, including any extension of time and/or excess claim fees, or credit any overpayment, to applicant's Deposit Account 08-2525 as appropriate.

Respectfully submitted,



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Attachments

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